UNITED STATES PATENT AND TRADEMARK OFFICE

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10/665,656	09/18/2003	Carol Ann Egan	ROC920030111US1	8562

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ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/665,656	EGAN ET AL.
	Examiner	Art Unit	
	Andrew Y. Chou	2192	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *20 April 2007*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-34 and 36-54* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-34 and 36-54* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _____ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This office action is in response to the amendment filed on 04/20/2007.

2.   Claims 1, 16, 17, 18, 21, 30, 47, and 54 have been amended.

3.   Claim 25 has been canceled.

4.   Claims 1-34 and 35-54 are pending.

Response to Amendment

5.   Applicant's amendments have overcome Examiner's 35 U.S.C 112, second

paragraph rejections of claims 16, 17, 21, and 47.

Response to Arguments

6.   Applicant's arguments filed on 4/20/2007 have been fully considered but they are

not persuasive.

        In the Remarks section, page 13, Applicant argues that the now amended claims

of 1, 30, and 54 require a detection of a triggering event on the computer system,

wherein the predefined triggering event is triggered by a current operating condition

within the computer system. Applicant contends that support for this amendment can be

found in the Specification of the present invention, page 7, paragraph [0020].

Furthermore, Applicant contends that Cheng et al., column 7, lines 5-11 does not

anticipate "detecting a predefined triggering event on the computer system indicative of

a potential maintenance issue, the predefined triggering event being triggered by a

current operating condition of the computer system" as disclosed in claim 1.

The Examiner respectfully disagrees and would like to direct Applicant's attention to Cheng et al. column 8, lines 5-11 where Cheng discloses "...or it may occur automatically, for example at preset periods, such as once a month." The preset period disclosed in Cheng acts like a performance trigger, or operating condition that is monitored. When the preset period is triggered, then the update process is initiated. In the Specification of the current application, page 7, paragraph [0020], the Applicant defines operating conditions to include performance triggers.

Also, the Applicant argues that Cheng et al. does not anticipate creating a list of recommended upgrades based on a set of selection policies. Examiner respectfully disagrees and would like to point to Cheng, FIG. 2, step 204, "Analyze client...to determine list..." and related text.

Claim Rejections - 35 USC § 102

7.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

8.   Claims 1-54 are rejected under 35 U.S.C 102(a) as being anticipated by Cheng et al. US 6,457,706 B1 (hereinafter Cheng).

Claim 1:

Cheng discloses a method for providing autonomic, event-driven upgrade maintenance

of one or more software modules residing on a computer system, the method

comprising:

detecting a predefined triggering event on the computer system indicative of a potential

maintenance issue, the predefined triggering event being triggered by a current

operating condition of the computer system (see for example page 4, [0050], and Cheng

et al. column 8, lines 5-11 where Cheng discloses "...or it may occur automatically, for

example at preset periods, such as once a month.");

connecting to an upgrade management server (see for example FIG. 1, item 102, and

page 4, [0051], and related text) ;

creating on the upgrade management server a list of recommended upgrade modules to

download to the computer system, the list based upon a set of selection policies (see for

example FIG. 2, step 204, FIG. 2, step 204, "Analyze client...to determine list..." and

related text, and related text);

downloading the list of recommended upgrade modules from the upgrade management

server to the computer system (see for example FIG. 2, step 209, and related text); and

selectively installing upgrade modules chosen from the list of recommended upgrade

modules on the computer system (see for example FIG. 2, step 205, and related text).

Claim 2:

Cheng further discloses the method of claim 1, wherein the method further comprises

the step of:

notifying a user of the status of the upgrade maintenance operation (see for example

FIG. 2, step 207, and related text).

Claim 3:

Cheng further discloses the method of claim 1, wherein the predefined triggering event

comprises a change to the hardware configuration of the computer system (see for

example page 4, [0053]).

Claim 4:

Cheng further discloses the method of claim 1, wherein the predefined triggering event

comprises a change to the software configuration of the computer system (see for

example page 4, [0053]).

Claim 5:

Cheng further discloses the method of claim 1, wherein the predefined triggering event

comprises exceeding a predefined error threshold on the computer system (see for

example page 4, [0053]).

Claim 6:

Cheng further discloses the method of claim 1, wherein the predefined triggering event

comprises exceeding a predefined performance threshold on the computer system (see

for example page 4, [0053]).

Claim 7:

Cheng further discloses the method of claim 1, wherein the predefined triggering event

comprises exceeding a predefined elapsed time since the last connection to the

upgrade management server (see for example page 4, [0050], lines 2-7).

Claim 8:

Cheng further discloses the method of claim 1, wherein the steps of connecting to a

upgrade management server and selectively installing the list of recommended upgrade

modules are controlled by a set of user defined policies (see for example FIG. 2, item

207, and related text).

Claim 9:

Cheng further discloses the method of claim 8, wherein the set of user defined policies

includes a preferred connection time (see for example page 4, [0050], lines 2-7).

Claim 10:

Cheng further discloses the method of claim 8, wherein the set of user defined policies

includes the connection resource to be used (see for example page 4, [0055]).

Claim 11:

Cheng further discloses the method of claim 8, wherein the set of user defined policies

includes the specification of computer system areas/software products to enable

automatic application of upgrades (see for example page 4, [0055], lines 1-14).

Claim 12:

Cheng further discloses the method of claim 8, wherein the set of user defined policies

includes a defined time to connect to the upgrade management server to check for

upgrades (see for example page 4, [0050]).

Claim 13:

Cheng further discloses the method of claim 8, wherein the set of user defined policies

includes a defined elapsed time interval for connecting to the upgrade management

server to check for upgrades (see for example page 4, [0050], FIG. 2, step 220, "update

process", and related text).

Claim 14:

Cheng further discloses the method of claim 8, wherein the set of user defined policies

includes a notification list for e-mailing user of information and actions relative to the

upgrade management process (see for example page 4, [0051], FIG. 3, item 307, "email

address", and related text).

Claim 15:

Cheng further discloses the method of claim 8, wherein the set of user defined policies

include a list of one or more upgrade management servers to be used for the upgrade

management process (see for example FIG. 1, item 103, and related text).

Claim 16:

Cheng further discloses the method of claim 1, wherein the computer software

comprises software applications (see for example FIG. 2, step 204, and related text).

Claim 17:

Cheng further discloses the method of claim 1, wherein, the computer software

comprises operating systems (see for example FIG. 2, step 204, and related text).

Claim 18:

Cheng further discloses the method of claim 1, wherein the computer software

comprises device drivers for installed hardware components (see for example FIG. 2,

step 204, and related text).

Claim 19:

Cheng further discloses the method of claim 1, wherein the set of selection policies is sent from the computer system to the upgrade management server (see for example FIG. 2, steps 208, 214, and related text).

Claim 20:

Cheng further discloses the method of claim 19, wherein the set of selection policies includes creating the list of recommended upgrade modules based upon a specific set of upgrades requested by the computer system (see for example FIG. 2, step 206, and related text).

Claim 21:

Cheng further discloses the method of claim 19, wherein the set of selection policies includes comparing the revision levels of the one or more software modules residing on the computer system against the revision levels one or more software modules residing on the upgrade management server (see for example FIG. 10, step 1006, and related text).

Claim 22:

Cheng further discloses the method of claim 19, wherein the set of selection policies includes creating the list of recommended upgrade modules by identifying modules associated with a hardware change on the computer system (see for example page 4, [0054]).

Claim 23:

Cheng further discloses the method of claim 19, wherein the set of selection policies

includes creating the list of recommended upgrade modules by identifying software

modules associated with a software change on the computer system (see for example

page 4, [0054]).

Claim 24:

Cheng further discloses the method of claim 19, wherein the set of selection policies

includes creating the list of recommended upgrade modules by identifying upgrades

specifically associated with an error triggering event on the computer system (see for

example FIG. 2, step 206, and related text).

Claim 25:

Cheng further discloses the method of claim 19, wherein the set of selection policies

includes creating the list of recommended upgrade modules by identifying upgrades

specifically associated with a performance triggering event on the computer system

(see for example FIG. 2, step 206, and related text).

Claim 26:

Cheng further discloses the method of claim 19, wherein the set of selection policies

includes creating the list of recommended upgrade modules by analyzing a problem

history provided by the computer system (see for example FIG. 2, step 206, and related

text).

Claim 27:

Cheng further discloses the method of claim 19, wherein the set of selection policies

includes creating the list of recommended upgrade modules by identifying compatible

revision levels between two or more software modules included within the list of

modules (see for example FIG. 2, step 205, and related text).

Claim 28:

Cheng further discloses the method of claim 1, wherein the step of downloading the list

of recommended upgrade modules from the upgrade management server to the

computer system further comprises the step of downloading the upgrade modules

themselves from the upgrade management server to the computer system (see for

example FIG. 2, step 209, and related text).

Claim 29:

Cheng further discloses the method of claim 1, wherein the step of selectively installing

upgrade modules chosen from the list of recommended upgrade modules on the

computer system further comprises the step of downloading any upgrade modules

chosen from the list of recommended upgrade modules from the upgrade management

server to the computer system prior to the install (see for example FIG. 2, steps 209,

211, and related text).

Claim 30:

This is the computer-readable program version of the claimed method discussed above

(Claim 1), wherein all claim limitations have been addressed and/or covered in cited

areas as set forth above. Thus, accordingly, these claims are also anticipated by

Cheng.

Claim 31:

This is the computer-readable program version of the claimed method discussed above

(Claim 2), wherein all claim limitations have been addressed and/or covered in cited

areas as set forth above. Thus, accordingly, these claims are also anticipated by Cheng.

Claim 32:

This is the computer-readable program version of the claimed method discussed above (Claim 3), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Cheng.

Claim 33:

This is the computer-readable program version of the claimed method discussed above (Claim 4), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Cheng.

Claim 34:

This is the computer-readable program version of the claimed method discussed above (Claim 5), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Cheng.

Claim 35:

This is the computer-readable program version of the claimed method discussed above (Claim 5), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Cheng.

Claim 36:

This is the computer-readable program version of the claimed method discussed above (Claim 7), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Cheng.

Claim 37:

This is the computer-readable program version of the claimed method discussed above (Claim 8), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Cheng.

Claim 38:

This is the computer-readable program version of the claimed method discussed above (Claim 9), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Cheng.

Claim 39:

This is the computer-readable program version of the claimed method discussed above (Claim 10), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Cheng.

Claim 40:

This is the computer-readable program version of the claimed method discussed above

(Claim 11), wherein all claim limitations have been addressed and/or covered in cited

areas as set forth above. Thus, accordingly, these claims are also anticipated by

Cheng.

Claim 41:

This is the computer-readable program version of the claimed method discussed above

(Claim 12), wherein all claim limitations have been addressed and/or covered in cited

areas as set forth above. Thus, accordingly, these claims are also anticipated by

Cheng.

Claim 42:

This is the computer-readable program version of the claimed method discussed above

(Claim 13), wherein all claim limitations have been addressed and/or covered in cited

areas as set forth above. Thus, accordingly, these claims are also anticipated by

Cheng.

Claim 43:

This is the computer-readable program version of the claimed method discussed above

(Claim 14), wherein all claim limitations have been addressed and/or covered in cited

areas as set forth above. Thus, accordingly, these claims are also anticipated by

Cheng.

Claim 44:

This is the computer-readable program version of the claimed method discussed above

(Claim 15), wherein all claim limitations have been addressed and/or covered in cited

areas as set forth above. Thus, accordingly, these claims are also anticipated by

Cheng.

Claim 45:

This is the computer-readable program version of the claimed method discussed above

(Claim 19), wherein all claim limitations have been addressed and/or covered in cited

areas as set forth above. Thus, accordingly, these claims are also anticipated by

Cheng.

Claim 46:

This is the computer-readable program version of the claimed method discussed above

(Claim 20), wherein all claim limitations have been addressed and/or covered in cited

areas as set forth above. Thus, accordingly, these claims are also anticipated by

Cheng.

Claim 47:

This is the computer-readable program version of the claimed method discussed above

(Claim 21), wherein all claim limitations have been addressed and/or covered in cited

areas as set forth above. Thus, accordingly, these claims are also anticipated by

Cheng.

Claim 48:

This is the computer-readable program version of the claimed method discussed above

(Claim 22), wherein all claim limitations have been addressed and/or covered in cited

areas as set forth above. Thus, accordingly, these claims are also anticipated by

Cheng.

Claim 49:

This is the computer-readable program version of the claimed method discussed above

(Claim 23), wherein all claim limitations have been addressed and/or covered in cited

areas as set forth above. Thus, accordingly, these claims are also anticipated by

Cheng.

Claim 50:

This is the computer-readable program version of the claimed method discussed above

(Claim 24), wherein all claim limitations have been addressed and/or covered in cited

areas as set forth above. Thus, accordingly, these claims are also anticipated by

Cheng..

Claim 51:

This is the computer-readable program version of the claimed method discussed above

(Claim 25), wherein all claim limitations have been addressed and/or covered in cited

areas as set forth above. Thus, accordingly, these claims are also anticipated by

Cheng.

Claim 52:

This is the computer-readable program version of the claimed method discussed above

(Claim 26), wherein all claim limitations have been addressed and/or covered in cited

areas as set forth above. Thus, accordingly, these claims are also anticipated by

Cheng.

Claim 53:

This is the computer-readable program version of the claimed method discussed above

(Claim 27), wherein all claim limitations have been addressed and/or covered in cited

areas as set forth above. Thus, accordingly, these claims are also anticipated by

Cheng.

Claim 54:

Cheng discloses a method for deploying computing infrastructure, comprising

integrating computer-readable code into a computing system, wherein the code in

combination with the computing system is capable of providing autonomic, event-driven

upgrade maintenance of one or more software modules residing on a computer system,

the method comprising the steps of:

detecting a predefined triggering event on the computer system indicative of a potential

maintenance issue (see for example page 4, [0050]);

connecting to an upgrade management server (see for example FIG. 1, item 102, and

page 4, [0051], and related text);

creating on the upgrade management server a list of recommended upgrade modules to

download to the computer system, the list based upon a set of selection policies (see for

example FIG. 2, step 204, and related text);

downloading the list of recommended upgrade modules from the upgrade management

server to the computer system (see for example FIG. 2, step 209, and related text); and

selectively installing any upgrade modules chosen from the list of recommended

upgrade modules on the computer system (see for example FIG. 2, step 205, and

related text).

Conclusion

9.   Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

Any inquiry of a general nature of relating to the status of this application or

proceeding should be directed tot eh TC 2100 Group receptionist whose telephone

number is (571) 272 2100.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for published

applications may be obtained from either Private PAIR or Public PAIR. Status

information for unpublished applications is available through Private PAIR only. For

more information about the PAIR system, see http://pair-direct.uspto.gov. Should you

have questions on access to the Private PAIR system, contact the Electronic Business

Center (EBC) at 866-217-9197 (toll free).

AYC

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SUPERVISORY PATENT EXAMINER